

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7867 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KANUBEN W/O DEVSHI MOHAN

Versus

DISTRICT MAGISTRATE

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Appearance:

MR ANIL S DAVE for Petitioner

U A Trivedi, APP for Respondents

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 27/11/96

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner has challenged the order of detention dated 6.10.1996.

2. Learned Advocate for the petitioner Mr A S Dave, though has raised a number of contentions in the memo of this Special Civil Application, he has pressed only one

contention before me viz; that there was undue and unreasonable delay in passing the order of detention by the detaining authority and that the delay which stands unexplained vitiates the impugned order. He has invited my attention to para 13 of the Special Civil Application. It is stated that the detaining authority received the proposals from the sponsoring authority on 24.4.1996 and the statements were verified on 22.4.1996. In spite of this fact, the order of detention was passed as late as on 6.10.1996 i.e. after a delay of more than 5 months.

3. Following the law laid down by the Apex Court in the case of Pradip Nilkant vs. Ramamurthy, reported in AIR 1994 SC 656, I am constrained to hold that the impugned order of detention is vitiated on the ground of unexplained delay.

4. In view of the aforesaid, this Special Civil Application is allowed. The impugned order of detention dated 6.10.1996 is quashed and set aside. The detenu shall be released forthwith if not required in any other cases. Rule made absolute accordingly.

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